

The Honorable James L. Robart

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

and

SARAH FAULKNER AND DEBRA
McMILLAN,

v.

GLACIER NORTHWEST, INC.,

Defendant.

CIVIL ACTION NO. C07-1530 JLR

CONSENT DECREE AND [PROPOSED]
ORDER DISMISSING ACTION

I. INTRODUCTION

1. This action originated with a discrimination charge filed by Sarah Faulkner and Debra McMillan (“Charging Parties”) with the Equal Employment Opportunity Commission. The Charging Parties alleged that Glacier Northwest, Inc. (Glacier) discriminated against them on the basis of sex by paying them a lower wage than a male comparator in violation of Title VII of the Civil Rights Act of 1964, as amended (“Title VII”), 42 U.S.C. § 2000e et seq, and the Equal Pay Act of 1963, sections 6(d)(1) and 15(a)(2) of the FLSA, 29 U.S.C. §§ 206(d)(1) and 215(a)(2) (“EPA”).

2. On August 2, 2007, the EEOC issued a Letter of Determination with a finding of reasonable cause to believe that Glacier violated the EPA based on the allegations of discriminatory wage payment made by Faulkner and McMillan.

3. The Commission filed its complaint on September 28, 2007, in the United States District Court for the Western District of Washington, alleging violations of the EPA

4. The parties want to conclude fully and finally all claims arising out of the charges of discrimination filed with EEOC by Faulkner and McMillan, the EEOC's Letter of Determination, and the EEOC's complaint. The EEOC and Glacier enter into this consent decree to further the objectives of equal employment as set forth in the Equal Pay Act.

II. NONADMISSION OF LIABILITY

5. This Consent Decree is not an adjudication or finding on the merits of this case and shall not be construed as an admission by Defendant.

III. JURISDICTION AND VENUE

6. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is also authorized and instituted pursuant to Sections 16(c) and 17 of the Fair Labor Standards Act ("FLSA"), as amended, 29 U.S.C. §§ 216(c) and 217, to enforce the requirements of the EPA, codified as Section 6(d) of the FLSA, 29 U.S.C. §206(d). The parties agree that the alleged acts took place within the jurisdiction of the United States District Court for the Western District of Washington.

IV. SETTLEMENT SCOPE

7. This Consent Decree is the final and complete resolution of all allegations of unlawful employment practices contained in the Charging Parties' charges of discrimination, in the EEOC's administrative determinations, and in the complaint filed herein.

V. MONETARY RELIEF

8. In settlement of this lawsuit, Glacier agrees to pay the following sum: \$20,000 less applicable withholding required by law. Payment shall be made to the claimants within ten (10) days, at addresses to be provided, with copies to the EEOC.

VI. INJUNCTIVE AND OTHER RELIEF

A. General Provisions

9. Glacier, its officers, agents, and employees are enjoined from engaging in practices which unlawfully discriminate against applicants or employees on the basis of sex or in retaliation for engaging in protected activity. In recognition of its obligations under the Equal Pay Act, Glacier shall institute the policies and practices set forth below at its Seattle Cement Facility.

B. Anti-Discrimination Policies and Procedures

10. Glacier shall carry out anti-discrimination policies, procedures and training for employees, supervisors and management personnel and shall provide equal employment opportunities for all employees consistent with its obligations under the law. Glacier shall ensure that the practices of its managers and supervisors are consistent with the obligations of this paragraph, and compliance with EEO policies will be considered in the performance evaluations of management personnel.

11. Within sixty (60) days of the date of the effective date of this Consent Decree, Glacier shall provide to the EEOC: (a) an EEO policy which addresses Glacier's obligation to provide a work environment free of discrimination and retaliation for its employees, and states its commitment not to retaliate against any employee for engaging in protected EEO activity; and (b) confirmation that it distributed its EEO policy to all present employees, both management and non-management. During the life of this Consent Decree, each new employee will receive a copy of the EEO policy.

C. Training

12. Within sixty (60) days of the execution of this Consent Decree, and biannually thereafter, Glacier will present to all managers and supervisors three (3) hours of training on employment discrimination, including sex discrimination, pay issues, and retaliation. Each training session will also emphasize its obligations under this consent decree. The training materials must be submitted to the EEOC in reasonable time ahead of the training session for review and approval prior to their use. The EEOC shall not, however, unreasonably withhold approval. Non-management employees who participate in personnel decisions, including termination, must also attend these training sessions.

13. Glacier will notify the EEOC of the completion of the training and will specify the names and job titles of the employees who completed the training.

D. Expungement of Records

14. Glacier shall remove from McMillan's and Faulkner's employee and personnel files, and shall not disclose any information about, any reference to their charges of discrimination or this lawsuit .

E. Policies Designed to Promote Supervisor Accountability

15. Glacier agrees that it shall impose substantial discipline -- up to and including, but not limited to, termination of employment, suspension without pay or demotion -- upon any supervisor or manager who it determines has discriminated against any applicant or employee on the basis of sex, or who retaliates against any person who complains or participates in any investigation or proceeding concerning any such conduct. Glacier shall communicate this policy to all of its supervisors and managers.

16. Glacier agrees that it shall advise all managers and supervisors of their duty to actively monitor their work areas to ensure employees' compliance with the company's EEO policy, and to report any incidents or complaints of discrimination or retaliation of which they become aware.

F. Reporting

17. Glacier shall report in writing to the legal unit of the EEOC on an annual basis, beginning one year from the date of the entry of this decree, and thereafter every twelve (12) months for the duration of the decree the following information:

- a. Certification of the completion of three (3) hours of training for managers, supervisors, and non-management employees who participate in the promotion or hiring process, along with lists of attendees;
- b. Certification that its EEO policy has been distributed to all current and newly hired employees; and
- c. A list of any changes, modifications, revocations or revisions to its EEO policies and procedures which concern or affect the subject of discrimination.

G. Posting

18. Glacier will post a Notice, attached as Exhibit 1 to this Consent Decree. The Notice shall be posted on a centrally located bulletin board or other place where such notices are normally posted and read by employees for the duration of the consent decree.

VII. ENFORCEMENT

19. If the EEOC determines that Glacier has not complied with the terms of this consent decree, the EEOC will provide written notification of the alleged breach to the company. The EEOC will not petition the court for enforcement of this consent decree for at least twenty (20) days after providing written notification of the alleged breach. The 20-day period following the written notice shall be used by the parties for good faith efforts to resolve the dispute.

VIII. RETENTION OF JURISDICTION

20. The United States District Court for the Western District of Washington shall retain jurisdiction over this matter for the duration of this consent decree.

IX. DURATION AND TERMINATION

21. This consent decree shall be in effect for two (2) years beginning from the date this consent decree is entered by this Court. If the EEOC petitions the court for breach of this consent decree, and the court finds Glacier to be in violation of its terms, the court may extend the duration of this consent decree.

X. CONCLUSION

22. The parties are not bound by any provision of this decree until it is signed by authorized representatives of each party and entered by the court.

Dated this 9th day of February, 2009.

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